

TWENTY-SIXTH YEAR.

SALT LAKE CITY, UTAH: SUNDAY, JUNE 16, 1895.

PRICE, FIVE CENTS.

## CYANIDE LITIGATION.

Judge Merritt's Ruling on the Demurrers to the Complaint.

RYAN AND REAM CATTLE CO.

RECEIVER HARRY PAYS THE AMOUNT REALIZED INTO COURT.

The Everill and the Greer Divorce Answer to the Gillette-Herzog Cross Complaint—Litigation Over Gold City Lots—A Long List of Short Orders—Miscellaneous Court Business.

In the case of the Gold and Silver Extraction company vs. Mercur Gold Mining and Milling company, the demurrer as to first exception was sustained and the demurrer as to the second exception was overruled. Ten days were allowed to amend and ten days allowed the defendant to plead after amended complaint is filed.

As the case is of great importance and interesting to mining men, The Herald gives Chief Justice Merritt's ruling on the points raised in full, as follows:

In the district court of the Third judicial district of the territory of Utah.

The Gold and Silver Extraction company of America (limited), plaintiff, vs. the Mercur Gold Mining and Milling company, et al., defendants.

The plaintiff in this case filed its bill against the defendants, praying for an injunction against defendants enjoining them from infringing two certain letters patent of the United States heretofore granted to the assignors and predecessors in interest of plaintiff, and for damages for past infringement.

It appears from the complaint that the plaintiff is the owner of two patents of the United States, one issued to John Stewart MacArthur, on the 24th day of December, 1883, and the other to John Stewart MacArthur on the 10th day of May, 1889, and the other issued to John Stewart MacArthur on the 24th day of December, 1883.

The first of these patents is for a process for the extraction of gold and silver from ores containing base metals, by the use of a dilute solution of cyanide. The second patent is for a machine or mechanical device called a metallurgical filter. This filter is used for precipitating gold and silver from the solution, but in its use is not confined to the cyanide process, or used in connection therewith exclusively, but may be advantageously employed as set forth in the specification for precipitating the precious metals obtained by means of many of the well-known processes for the extracting of gold and silver from their ores.

The complaint in this action contains but one cause of action, to wit: That the defendants in this cause and all proceedings thereon must be governed by the procedure and practice under the code of Utah.

Defendants demurred to the complaint on the grounds that there was a misjoinder of causes of action, in that two causes of action had been improperly united in said complaint.

Second—That two causes of action had been improperly united in one count in said complaint.

Third—That the part of the complaint based upon the alleged infringement of the letters patent for the extraction of gold and silver from ores containing base metals, fails to state a cause of action against defendants, or either of them.

Plaintiff insists that there is but one cause of action stated in the complaint.

The defendants had infringed each of the letters patent in the manner charged in the complaint, there is no doubt in my opinion that the plaintiff might have maintained one action against the defendants for the infringement of one of these patents and another independent action at the same time for the infringement of the other, but that the plaintiff could not have been successfully pleaded in abatement to the other, and that a judgment in one whether in favor or against the plaintiff would not have been pleaded in bar of the other.

Subjected to this test it clearly appears that the complaint contains two causes of action. They are causes of action which, in my opinion, may be properly united in the one complaint, but they should be separately stated; that is to say, in separate counts, and the demurrer is sustained as to this ground.

The first of the letters patent mentioned in the complaint is for a process for extracting gold and silver from ores containing base metals. The defendants claim that as to these letters patent the complaint fails to state a cause of action, and in support of this ground of demurrer, claim that it is not alleged in the complaint that the ore treated by defendants are ores containing base metals.

There is no such direct and positive allegation, but it is inferred that this is inferentially alleged. The defect is one that could not be reached by a general demurrer, and as to this ground the demurrer is overruled.

Attest: DAVID C. DUNBAR, Judge.

(Seal)

RYAN AND REAM CATTLE CO.

Receiver Harry Pays \$8,110, Amount Realized, Into Court.

In the matter of the State Bank of Utah et al. vs. Patrick Ryan et al., the Ryan & Ream Cattle company et al., the arguments on motion to allow the receiver's claims and to dismiss the receiver, W. C. Barry, were resumed and concluded before Chief Justice Merritt. His honor ordered that the report of the referee be modified so as to change the allowance of the receiver from \$100 per month to \$150 per month and reduce the amount of the receiver's attorney's fees from \$200 to \$100.

Mr. Barry was receiver for about eight months, so the new order will make a difference of about \$1,200 in the amount of his remuneration.

During the afternoon, Mr. Barry paid into court \$8,110 in full of funds in his hands as receiver of the Ryan & Ream Cattle company.

Hit in the Everill Divorce.

The divorce case of Ruth Everill vs. John Everill came on for hearing before Chief Justice Merritt. The ground on which the divorce was asked was failure to support. Mrs. Everill and Mrs. Jennie Stevens, her daughter, were examined, but failed to prove the allegation. The plaintiff's attorney was, however, allowed to file an amended complaint, in which cruelty

and absolute habits will be made a part of the complaint.

Greer Case Submitted.

The divorce suit of William A. Greer vs. Susan Greer was called up before Chief Justice Merritt. Attorney J. H. Moyle withdrew his appearance for Mrs. Greer, and the plaintiff was examined and depositions of other parties read tending to prove that Mrs. Greer had been guilty of adultery with various people at sundry times and places.

His honor did not grant the divorce, but took it under advisement.

E. T. Singer Answers.

Edward T. Singer yesterday filed his answer to the cross-complaint of the Gillette-Herzog Manufacturing company, in the suit of E. T. Singer vs. the Salt Lake City Copper Manufacturing company.

Singer denies that he was personally or at all liable as a guarantor or in any other way for \$15,000, or any sum to become due to Harriet L. Green; denies that he is liable for any of the debts of the copper company or has any interest in any claims against the said company; denies that as a director or otherwise he has diverted any of the funds of the copper company to his own use, or that he has ever engaged Harriet, as trustee, to sell the property, or that he had anything at all to do with the payment of any part of the \$15,000 mentioned in the complaint; denies that the trust deed to David May was kept from the records for the purpose of giving the copper company a fictitious credit, and denies that said trust deed is fraudulent or that it ought to be postponed to the payment of the cross-complainant's claim. It is also denied that the Utah Mining company was organized for the sole purpose of being a cover for part of the property of the copper company.

Litigation About Gold City Lots.

H. E. Bassford has begun suit in the Third district court against Jacob Moritz, Frank Knox, G. S. Holmes, J. W. Hamm and De Witt B. Lowe, going business as the Gold City Land and Townsite company, alleging that on February 2, 1895, the defendant company agreed to deed him a piece of land described as part of the east half of the southeast quarter of section 2 and the west half of the southwest quarter of section 3, township 3 south, range 1 east, known as lots 4 and 5, block 11, Gold City plat, for the sum of \$150; that the plaintiff paid \$50 and tendered the balance and demanded his warranty deed, but the defendants refused to deliver the same.

It is alleged that as part of the contract, made at the time of purchase, the plaintiff was to erect a store building on the lots, and that relying on said contract he closed out a valuable business in Salt Lake and expended in erecting a building on the Gold City lots the sum of \$450, and started business, devoting his whole time for three months to said business. His time, he alleges, was reasonably worth \$300 and the good will of the business is worth \$500. It is then alleged that defendants did not own the lots and that the parties who did, completed plaintiff to leave and vacate the same, to his damage in the sum of \$1,200, for which sum judgment is prayed.

Short Orders.

R. D. Millett vs. D. P. Tarpey; defendant allowed twenty days to answer.

Salt Lake Lithographic company vs. Ibox Mine and Smelting company; judgment for plaintiff for \$538.08 allowed by consent.

S. F. Walker et al. vs. J. H. Bacon and Salt Lake Construction company vs. Henry McKinnis et al.; findings of referee approved and judgment for defendants entered in accordance therewith in both cases.

Keene American Loan and Savings company vs. John H. Sarnger et al.; leave granted to file amended complaint.

Joseph Canton vs. The Utah Underwriting company; defendant to answer to law and motion calendar.

Brighton and North Point Irrigation company vs. Charles J. Hubbard et al.; order made overruling motion for a new trial.

Louis Hyams vs. Simon Hamberger et al.; plaintiff consents to order that a new trial be allowed.

G. L. Barker vs. Bligham Gold Mines company; motion to retax costs argued and submitted.

Eagle Foundry and Machine company vs. the Ibox Mine and Smelting company; motion to retax costs allowed by consent.

R. D. Millett vs. C. E. Wantland et al.; judgment for plaintiff for \$1,131.95.

Sarah C. Taylor vs. J. H. Clifton et al.; judgment for plaintiff by default.

S. W. Morrison et al. vs. D. W. Gamble et al.; D. W. Wanger appointed referee.

Salt Lake Lithographic company vs. The Ibox Mine and Smelting company; thirty days allowed in which to file answer and cross complaint and same time to contest labor claims.

May, Jane Rice vs. William Hammond et al.; motion to appoint receiver partly argued and continued till next Saturday; plaintiff restrained from moving away upon filing a bond in the sum of \$100.

G. D. Amos vs. S. M. Green et al.; leave granted to file cross complaint of T. W. Jennings.

May, Jane Rice vs. William Hammond et al.; judgment for plaintiff for \$1,131.95.

Joseph A. West vs. B. F. Fuller for the plaintiff for \$13.35.

Court Callings.

Judgment was yesterday entered in the Third district court for \$1,831.18 in favor of the receivers of the Union Pacific railway and against the Ibox Mining company.

Deputy Clerk of the District Court looked went to Diamond Creek yesterday on a fishing expedition.

The divorce suit of Clara Franks vs. E. A. Franks was dismissed on motion of the plaintiff.

Chief Justice Merritt gave notice that he would resume work on the law and motion calendar on Thursday morning after the adjournment of the supreme court.

George Benson, alias "Slim" Matthews having been pardoned by the mayor, the writ of habeas corpus was set down for hearing yesterday was unnecessary and was dismissed.

Christ Johnson, who was charged with doing malicious mischief by nailing up the door of Mr. Olson's barn on Fifth South street, changing its lock, imprisoning Olson's chickens in the chicken coop and brands of a similar kind, had a hearing before United States Commissioner Greenman yesterday and was discharged, the complaining witness, Mr. Olson, failing to prove his allegations.

## THE SIXTEENTH TO GO

Appears to Be No Doubt of a Change.

MAY MOVE TO FT. SHERIDAN

THE COLORADO TWENTY-FOURTH MAY COME HERE.

Rumor of the Change Followed the Visit of Assistant Secretary of War Doe to Chicago—General Schofield Not Authority for the Report.

Regarding the rumored removal of the Sixteenth Infantry from Fort Douglas it is claimed that General Schofield, on his recent visit, did not make any definite statement on the subject. This is doubtless correct, as it would be against military usage for an officer of his rank to give out such information in an unofficial manner. It is certain, however, that the subject was brought up, and it is equally certain that the popular Sixteenth will soon move. As evidence of this, the following from the Chicago Chronicle is given:

Assistant Secretary of War General Joseph B. Doe was around the hotels yesterday morning, and soon after he left rumors were flying around that the Sixteenth Infantry, U. S. A., will be the regiment to replace the favorite Fifteenth at Fort Sheridan. There has been very little doubt that the "Fifteenth" is scheduled to go to Fort Bayard, N. M., early in July, but the statement that the Sixteenth Infantry from Fort Douglas, Salt Lake City, Utah, will come to Fort Sheridan was a surprise. The programme is said to include the transfer of the colored Twenty-fourth Infantry, which it was thought was scheduled for Fort Sheridan to Fort Douglas. Thus the Fifteenth will replace the Twenty-fourth, the latter will take the place of the Sixteenth, and the last named will succeed the Fifteenth. An officer of the Twenty-fourth, who claimed that his information was authoritative, said yesterday that the programme would be carried out as indicated.

The Twenty-fourth regiment bears a good name. Its fighting record in several Indian campaigns is excellent, too. A corporal of the Twenty-fourth is among the famous ones in army annals who have gone alone far in front of the lines in the face of the straight aimed fire of Indian guns and rescued wounded comrades. The corporal in question in the Geronimo campaign carried a wounded private on his back 100 yards or more over ground open to the deadly Indian fire.

Transfers Are Expensive

The army transfers of this year will not be so numerous as they were in 1894, but they will be expensive. The changes for the three regiments named will cost over \$100,000. The treasury is bare of transportation funds the exchange cannot be effected until after July 1, when the new fiscal year opens and a new appropriation is available. The Fifteenth will not lose very much by the change, as it will be divided between Fort Bayard and Fort Huachuca, Ariz., two of the best posts in the army. Fort Bayard is high among the hills and Huachuca is in a delightful valley of the Mogollon range. The surrounding country is one of the prettiest in America.

The Sixteenth foot, which comes to Sheridan, would be able, if permitted, to write on its flag, "Shiloh, Murfreesboro, Chickamauga, Missionary Ridge, Kennesaw Mountain, New Dow Creek, Atlanta and Jonesboro," that being a list of the principal battles in which it was engaged. The regiment was formed in 1861 and reorganized in 1868 and 1889, at which latter time the Eleventh and Thirty-fourth were consolidated as the Sixteenth. Brevet Major-General Jeremiah Penny, a brave veteran of the war, was the commander for several years. The Sixteenth saw lively times in Mississippi in the reconstruction period and has since served in Texas, Kansas and Utah. It was prominent in the Utah expedition of 1873. For several years the regiment has been garrisoned at Fort Douglas on the great Salt Lake.

Officers of the Regiment.

The commanding officer is General W. H. Penrose, who commanded the New Jersey brigade during the war. The other officers are: Lieutenant Colonel Edwin M. Coates, Major H. B. Freeman, Captains W. H. Clapp, C. W. War, C. H. Noble, George H. Palmer, W. V. Richards, Theo. W. Morrison, S. R. Whittall, T. C. Woodbury, Leven C. Allen, W. C. McFarland, First Lieutenants William Lassiter, C. R. Tyler, E. R. Steadman, W. A. Thorston, John Newton, S. W. Dunne, W. H. Coyle, Elias Chandler, W. K. Wright, W. H. Johnston, Jr., C. P. George, B. B. Back, Second Lieutenants George D. Goyer, Lewis S. Sorley, John E. Woodward, Isaac E. Wynn, Guy G. Palmer, Robert E. L. Spence, E. C. Carey, Charles W. Castle, R. F. Gardner and John F. Preston, Jr.

EFFECTIVE APPEARANCE ANYHOW

"You can't come anywhere near winning," shouted the wheelman as he darted past one of his competitors. "That may be so," said the competitor, as he dismounted, rolled himself in the dust, tore his shirt and scratched his cheek, "but I'll be jiggered if I'm not going to make a respectable showing just the same."—Chicago Record.

A WARM BATH WITH CUTICURA SOAP

And a single application of CUTICURA, the great skin cure, will afford instant relief, permit rest and sleep, and point to speedy, economical, and permanent cure of the most distressing of itching, burning, bleeding, scaly, and crusty skin and scalp diseases, after physicians, hospitals, and all else fail.

Sold throughout the world. British depot: Newbury, N. King Edward-st., London. Purveyors: DAVIS & CHEM. CO., Sole Props., Boston, U. S. A.

## DO MEN READ NEWSPAPER ADVERTISEMENTS?

WELL SEE.

50 dozen Suspenders, ranging from 75c to \$1.50 a pair

YOUR CHOICE MONDAY AND WEEK, - 50cts.

Our \$5.00 and \$6.00 Shoes for only - - - \$3.50

A Fine Line 50c Scarfs, three for - - - \$1.00

Also a Good Scarf Tie, Five for - - - \$1.00

WE HAVE A NEW THING IN WASHABLE TIES,

THE BEST THING YOU EVER SAW.

R. K. THOMAS,

26, 28, 30, 32 East First South Street.

RELIGIOUS NEWS AND THOUGHT.

GATHERED FROM THE RELIGIOUS AND SECULAR PRESS.

Words of Wisdom and Thoughts Worth Pondering on Religious and Moral Subjects.

I know of no religious spectacle more impressive than that of a bare-footed Turk standing erect on his prayer-rug, with his face toward Mecca and his eyes looking straight into the eyes of God. It is not a duty with him, nor a formality, nor the maintenance of a time-honored custom. It is his very life. Watch him as he enters this wretched interior of a harem, with its scaling and crumbling walls, and its broken windows, through which the doves fly in and out. Outside, at the trickling fountain, he has washed his face and hands, bathing his throat and smoothing his beard with his wet fingers. He is a rough, broad-shouldered, poorly-clad man in fez and shirt, his waist girt with a wide sash, ragged and torn. He is, perhaps, a "hannal," a man who carries great weights on his back—a human beast of burden. His load, whatever it may be, is outside in the court. His hourly task is his daily bread, but he has heard the shrill cry from the minaret up above the sky, and stops instantly to obey.

He enters the sacred building with his shoes in his hands. These he leaves at the edge of the mat. Now he is on holy ground. Advancing slowly, he halts half-way across the floor, and then stands erect. Before him is a blank wall; beyond it the tomb of the prophet. For a moment he is perfectly still, his eyes closed, his lips motionless. It is as if he stood in the antichamber of heaven, awaiting recognition. Then his face lights up. He has been seen. The next instant he is on his knees, and, stretching out his hands, prostrates himself, his forehead pressed to the floor. This solitary service continues for an hour. The man stands erect one moment, with a movement as if he said, "Command me; I am here." The next moment he is prostrate in obedience. Then he backs slowly out, and, noiseless, regains his shoes, bends his back to his burden and keeps on his way, his face having lost all its tired, hunted look.—The Century.

The Need of Inspiration. "Most of us need the inspiration which comes from this revealing, self-inspiring, and self-revealing apt to deceive us. People whose days are all alike in their dull routine feel that their life is scarcely worth living. If only they could do something startling or sublime, or even sensational, to lift them out of the dreary commonplace of their dull days, they would feel that they were living nobly and worthily. But if they could realize that it is by its moral value that life's worth is measured, they would know that ordinarily there is ten times more glory in long, unbroken years of simple faithfulness without distinction or consciousness at any point than there is in any unusual brilliancy in an occasional day or hour."—Rev. J. R. Miller.

How to Help the Church. "The best help that can be given to the church is that of the individual life, every man living for Christ, seeking in every way to commend him to those who know him not. Such a spirit will promote comradeship. Each will respect another who is striving in his own way for the same end. There will be a readiness for co-operation, a desire to supplement and assist one another's efforts, an endeavor to fill up what is lacking and a willingness to undertake conspicuous and humble duties. Besides all this, there will be an absence of censorious criticism, a disposition to think charitably of the unwise and the erring and a recognition of the brotherhood of every one who loves and serves Christ. There could be no better service rendered to the church than this exhibition of the spirit of Christ in humanity. In love, in tenderness and helpfulness. It would find abundant opportunities for exercise and would develop the same spirit in others. The church life would be broadened and deepened and strengthened for aggressive work in extending Christ's kingdom in the world."—Christian Herald.

Getting Back to Christ. "It is said of Nicholas II that when a boy he was greatly moved by the story of the Indians heaped upon Christ by his murderers, to whom his tutor drily said: 'If Jesus of Nazareth were to come to St. Petersburg and attempt to teach the streets we ought to be in Jerusalem, he would be at once arrested and clapped into jail with quite as little ceremony as ever was shown him in old Judaea.' The tutor was doubtless right. Nor can we believe, much as we would wish it otherwise, that the churches that bear his name today are fully and deliberately ready to go back to the Christ of the gospels, all in all, or being what he was, to welcome him as a fellow citizen, but also the Son of God, to whom the kingdom of heaven means more than all the canons of society, and the greatest is he of the most self-sacrificing spirit. The churches we ought to get back to him, but we are really in earnest about it."—Evangelist.

Sentiment in Religion. "Religion must not be confused or mixed with superstition, but should consist of sensible and positive convictions, which give a satisfactory explanation of our life, destiny and duty, and which furnish a safe and worthy guide to conduct. But this is not sufficient. There is something else, not more so. On the altar of the heart should glow the perpetual fire of true devotion and earnest piety. More belief is not of much value. Thought is cold, and incapable of inspiring, therefore cannot exert much actual influence. The mainspring of action is feeling and sentiment! Of course, it is first of all essential to know what we ought to know, what we ought to do, and to understand our duties fully and exactly. But thereby planning will not lead to doing. For what is needed is the prompting of the heart, a sincere desire to fulfill our part, a sense of dissatisfaction with wrong and neglect, and a feeling that not only doing well will make us satisfied, but that it is our duty to do so. On the altar of the heart should glow the perpetual fire of true devotion and earnest piety. More belief is not of much value. Thought is cold, and incapable of inspiring, therefore cannot exert much actual influence. The mainspring of action is feeling and sentiment! Of course, it is first of all essential to know what we ought to know, what we ought to do, and to understand our duties fully and exactly. But thereby planning will not lead to doing. For what is needed is the prompting of the heart, a sincere desire to fulfill our part, a sense of dissatisfaction with wrong and neglect, and a feeling that not only doing well will make us satisfied, but that it is our duty to do so. 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